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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/797,438

03/10/2004

John P. Godwin

PD-990228A

4478

7590

11/06/2006

Attention of Victor G. Cooper  
Gates & Cooper LLP  
Howard Hughes Center  
6701 Center Drive West, Suite 1050  
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EXAMINER

PEREZ, ANGELICA

ART UNIT

PAPER NUMBER

2618

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/797,438

Applicant(s)

GODWIN, JOHN P.

Examiner

Perez M. Angelica

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2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 39-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. Claim 45 recites the limitation "the multiplexer" in line 9. There is insufficient antecedent basis for this limitation in the claim.

### *Double Patenting*

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 39-58 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 11, 16-17, 21-23 of prior U.S. Patent No. 6,741,834 B1. This is a double patenting rejection.

Regarding claims 39, 47 and 52, U.S. Patent No. 6,741,834 B1 shows a terrestrial repeater, comprising: a repeater receiver, disposed in one of a plurality of local broadcast regions within a national broadcast region, the repeater receiver for receiving a signal transmitted by a satellite including national media programs intended for reception in the national broadcast region and regional media programs; a processor for filtering the signal to pass only the regional media programs intended for reception in the one of the plurality of local broadcast regions; a repeater transmitter, communicatively coupled to the repeater receiver, for transmitting the passed regional

media programs intended for reception in the one of the plurality of local broadcast regions (claim 1).

Regarding claims 40 and 48, U.S. Patent No. 6,741,834 B1 shows where the repeater transmitter further transmits national media programs to receivers disposed in the local broadcast region (claim 1).

Regarding claims 41 and 49, U.S. Patent No. 6,741,834 B1 shows where the processor further stores and repeats regional media programs (claim 16).

Regarding claims 42, 50 and 57, U.S. Patent No. 6,741,834 B1 shows where the processor further stores and retransmits regional program guide information at a repetition rate (claim 16).

Regarding claims 43, 51 and 58, U.S. Patent No. 6,741,834 B1 shows where the signal comprises media programs intended for reception in a second local broadcast region; and the repetition rate of the regional media programs is selected to utilize a repeater transmission capacity that would otherwise have been used to transmit the regional media programs intended for reception in the second local broadcast region (claim 17).

Regarding claim 44, U.S. Patent No. 6,741,834 B1 shows where the processor filters the signal to pass only the regional media programs intended for reception in the one of the plurality of local broadcast regions by performing the steps of: scanning metadata of the signal for local broadcast identifiers; and comparing the local broadcast identifiers with the local broadcast identifier of the repeater (claims 12, 15 and 21).

Regarding claim 45, U.S. Patent No. 6,741,834 B1 shows a terrestrial repeater, comprising: a repeater receiver, disposed in one of a plurality of local broadcast regions within a national broadcast region, the repeater receiver for receiving a signal including national media programs intended for reception in the national broadcast region and regional media programs; a processor, communicatively coupled to the repeater receiver, for filtering the regional media programs to pass regional media programs intended for reception in the one of a plurality of local broadcast regions from the regional media programs by comparing identifiers included in the signal against a local broadcast identifier of the terrestrial repeater; and a repeater transmitter, communicatively coupled to the repeater receiver and the multiplexer, for transmitting the filtered regional media programs to receivers disposed in the local broadcast region (claims 12 and 21).

Regarding claim 46, U.S. Patent No. 6,741,834 B1 shows where the repeater transmitter further transmits the local broadcast identifier to receivers disposed in the local broadcast region (claim 13).

Regarding claim 53, U.S. Patent No. 6,741,834 B1 shows where the first signal further comprises electronic program guide (EPG) information, and where the system further comprises a receiver having an EPG data module for generating an integrated EPG having the national media programs and only the regional media programs intended for reception in the determined broadcast region (claim 22).

Regarding claim 54, U.S. Patent No. 6,741,834 B1 shows where a receiver, disposed in the local broadcast region, the receiver comprising: a tuner module for

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receiving the second signal from the terrestrial repeater, a location module, for determining the local broadcast region (claim 21).

Regarding claim 55, U.S. Patent No. 6,741,834 B1 shows where the location module comprises: a global positioning system (GPS) receiver, for providing receiver position information; and a memory, for storing information relating receiver position information to the local broadcast region (claim 23).

Regarding claim 56, U.S. Patent No. 6,741,834 B1 shows where the location module comprises: a radio broadcast data system (RDBS) compliant tuner for receiving information indicating the local broadcast information (claim 21).

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angelica Perez whose telephone number is 571-272-7885. The examiner can normally be reached on 6:00 a.m. - 1:30 p.m., Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and for After Final communications.

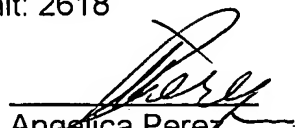
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either the PAIR or Public PAIR. Status information for unpublished applications is available through the Private PAIR only. For more information about the pair system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Information regarding Patent Application Information Retrieval (PAIR) system can be found at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.

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Angelica Perez  
Examiner

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October 19, 2006

  
10-30-06  
LANA LE  
PRIMARY EXAMINER